



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
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Instruction Memorandum No. WY-2006-029
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To: All Employees
From: Acting Associate State Director
Subject: Complaints of Discrimination

The Bureau of Land Management (BLM), is committed to providing a work environment free of discrimination. Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination based on race, color, national origin, religion, and sex. It also prohibits reprisal or retaliation for participating in the discrimination complaint process or for opposing any employment practice that the individual reasonably and in good faith believes violates Title VII.

The Age Discrimination in Employment Act of 1967, as amended (ADEA) prohibits discrimination in employment on the basis of age (40 years or older). It also prohibits retaliation against individuals exercising their rights under the statute. Unlike Title VII and the Rehabilitation Act, the ADEA allows persons claiming age discrimination to go directly to court without going through the Agency's administrative complaint procedures. If, however, a complainant chooses to file an administrative complaint, they must exhaust administrative remedies before proceeding to court.

The Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of mental and physical disabilities, as well as retaliation for exercising rights under the Act. The Rehabilitation Act requires that agencies make reasonable accommodations to the known physical or mental limitations of a qualified applicant or employee with a disability unless the agency can demonstrate that the accommodations would impose an undue hardship on the operation of its program.

The Fair Labor Standards Act of 1938, as amended (Equal Pay Act of 1963)(EPA), prohibits sex-based wage discrimination. It prohibits federal agencies from paying employees of one sex lower wages than those of the opposite sex for performing substantially equal work. Substantially equal work means that the jobs require equal skills, effort, and responsibility, and that the jobs are performed under similar working conditions. Sex-based claims of wage discrimination may also be raised under Title VII; individuals so aggrieved may claim violations of both statutes simultaneously. An EPA complaint may go directly to a court of competent jurisdiction on the EPA claim. It also prohibits retaliation for exercising rights under the Act.

Federal agencies are barred from discriminating on the basis of sexual orientation under Executive Order 11478, as amended by Executive Order 13087 (May 28, 1998), and

individuals alleging discrimination on this basis should consult with the EEO Office or Personnel Office to determine how to process such claims.

Title 29 Code of Federal Regulation (CFR) Part 1614, Federal Sector Equal Employment Opportunity Commission (EEOC) addresses the processing of Complaints of Discrimination. The EEO Complaint Process is designed for use solely by government employees and federal job applicants who believe they have experienced discrimination due to race, color, national origin, religion, sex, age, or disability. A person who files a complaint or participates in an investigation of an EEO complaint, or who opposes an employment practice made illegal under any of the statutes enforced by Equal Employment Opportunity Commission (EEOC), is protected from retaliation.

Aggrieved persons who believe that they have been discriminated against must initiate contact with an EEO Counselor or other agency official logically connected with the EEO process and exhibit an intent to begin the EEO process, within 45 days of the date of the matter alleged to be discriminatory or in the case of a personnel action within 45 days of the effective date of the action, prior to filing a formal complaint of discrimination. The agency or the Equal Employment Opportunity Commission (EEOC) shall extend the 45-day time limit when the individual shows that he or she was not notified of the time limits and was not otherwise aware of them, that he or she did not know and reasonably should not have known that the discriminatory matter or personnel action occurred, that despite due diligence he or she was prevented by circumstances beyond his or her control from contacting the counselor within the time limits, or for other reasons considered sufficient by the agency or the EEOC.

This pre-complaint processing more commonly known as the Informal EEO Counseling Process must be utilized in order to informally attempt to resolve the matter. Posters containing the names, business telephone numbers, and locations of EEO Counselors are posted prominently and conspicuously in the State Office and Field Offices. The poster used currently is posted on various bulletin boards, in break rooms and out-buildings.

Effective October 1, 1999, the BLM implemented a policy that offers alternative dispute resolution (ADR) (mediation) as an option for processing informal and formal complaints of discrimination. It is anticipated the changes will have a positive benefit on the discrimination complaint process. Among those are a reduction in the number of formal complaints filed and the time it takes to process such complaints. The ADR process will also encourage better communication between employees and supervisors, contribute to the development of conflict resolution skills by all BLM employees and supervisors, and facilitate a healthier organization. The use of ADR in the discrimination complaint process does not hinder or diminish the rights of employees under Title 29 CFR Part 1614.

At the initial counseling session or as soon as possible thereafter, the EEO Counselor must provide all aggrieved persons written notice of their rights and responsibilities under the EEO complaint process, including the option to elect ADR. If attempts to resolve the dispute through EEO Counseling or ADR fail to resolve the dispute, the EEO Counselor will advise the person of their rights to file a formal discrimination complaint.

This IM is not all inclusive. Inquiries regarding laws covered, the informal complaint process, ADR, or the filing of formal complaints of discrimination may be made with the EEO Office.

/s/ Donald A. Simpson
Acting Associate State Director

Authenticated by:
J. Camargo, Secretary
State Director's Office